After Hamburger: The Revisionary Debate in Light of John Stuart Mill on Liberty and Control

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This paper seeks to evaluate the liberalism of John Stuart Mill in light of the historical analysis offered by Joseph Hamburger in his *John Stuart Mill on Liberty and Control*. Hamburger is not evaluating the claims made in *On Liberty*, but rather his thesis is that Mill's intentions throughout his writings were to facilitate moral regeneration in the face of the selfish ethics he perceived central to Christian and Victorian social norms and beliefs. Mill wanted to bring about a secular "religion of humanity" that embraced altruism and the higher pleasures, a concept he receives from Auguste Comte, despite heavily criticizing him. To this end, the freedoms argued for in *On Liberty* were nothing more than the means to breaking down the old social norms, and instilling new enlightened ones. Hamburger's argument that negative liberty was never intended as a good to be valued for itself is a challenge to much of the traditional literature on Mill, as well as the revisionary literature that seeks to reconcile his utilitarian and liberal thinking. This paper will argue that a new interpretation of Mill, based on Hamburger's historical efforts, renders more of Mill's writings compatible because of the hitherto mischaracterisation of his thought. Firstly, I will begin by briefly outlining Hamburger's thesis about Mill's implicit goals and the role *On Liberty* plays. Secondly, I will sketch the traditional critique of Mill, as given by Isaiah Berlin, in order to compare this new interpretation of Mill to a revisionary response offered by John Gray. Finally, I conclude by responding to a recent critique of Hamburger's book by C.L. Ten. I should add, whereas Hamburger seeks to argue Mill's actual *intentions*, I am merely arguing that Hamburger's depiction, as yet another *interpretation*, accommodates more of Mill's writings.

I

One of the undeniably illuminating, if not provocative, contributions to Mill scholarship Hamburger makes is highlighting the extent to which Mill was influenced by French Positivism. Mill maintained correspondences with Comte, in what Hamburger describes as a "cordial and mutually flattering relationship", that is, at least initially (Hamburger, 1999: 127). Hamburger's big challenge in identifying this influence is to account for Mill's 1865 essay, entitled 'August Comte and Positivism', in which Mill launches a scathing critique that seems no less directed at the person, than the philosophy in question. Calling him, "morality-intoxicated", Mill objects to the stringent demands Comte places on the individual in his system. As in Calvinism, Mill charges, everything that is not a duty is a sin (Mill, 1969a: 337). Indeed, Mill objects that the "unity" and "systematisation" that Comte strives for would only be possible if everyone modelled themselves after himself, a man who by the way had a "puerile predilection for prime numbers" (Mill, 1969b: 365). The religion of humanity that Comte had in mind was far more authoritarian than Mill was advocating, hence his infamous indictment that Comte was committing "liberticide" (1969b: 327). Despite Mill's well-known diatribe against Comte, they still share quite a bit in common with each other. Hamburger points out that there are places where Mill writes about the religion of humanity, though not referring to it by name. In *Utilitarianism*, Mill advocates the interests of every individual to be in harmony with the interest of the whole, and that education and opinion would be the means to such harmonization (1999: 130). Moreover, in Mill's posthumously published writings on religion, we find a more explicit endorsement of a religion of humanity because of its capacity to mobilise and discipline the mind:

> The essence of religion is the strong and earnest direction of the emotions and desires towards an ideal object, recognized as of the highest excellence, and as rightfully paramount over all selfish objects of desire. This condition is fulfilled by the Religion of Humanity in as eminent a degree. (1999: 130)

Hamburger's conclusion is that Mill endeavoured to bring about a religion of humanity, but objected to Comte's particular vision of it in (1999: 131). This sort of ambivalence is not unique to his relationship with Comte. Mill also published critical essays on Bentham as well, but few would deny the influence of the latter over the former.

Underpinning Mill's attempts to bring about a religion of humanity is a very particular theory of history, which Hamburger also attributes to the influence of French Positivism. Articulated in *Spirit of the Age*, Mill distinguishes between organic or natural, and critical or transitional states in history (Hamburger, 1999: 43). The organic states are characterised by stability, and harmony of opinion, whereas the critical states experience disagreement, conflict, and restlessness for change. The background of *On Liberty* is that Mill was living during a critical period in history, and so sought to elevate society to the next organic state. The introduction to *On Liberty* states that Mill's thinking was based on "utility in the largest sense, grounded on the permanent interests of man as a progressive being." (L 224) Mill endeavoured to replace the selfishness he felt underpinned Victorian Christianity, and replace it with the more altruistic, secular religion of humanity. Only in a free and open society where experimenting with different modes of life was possible could the failures of this order be realised. During this critical period of history, enough challenges to the once established norms of Christian and Victorian society would eventually lead to rejection of them, in favour of adopting new ones, thus ushering in the next organic period of history. Once society had regenerated morality, it would no longer need the liberties argued for in *On Liberty*. Society would then maintain these norms even if it meant interfering with self-regarding behaviour, albeit in very particular ways. If man is a progressive being, then so should the principles we live by. *On Liberty* spells out the method to advance past this particular stage of history, with its outmoded norms.

Another element of Hamburger's thesis that is problematic for the traditional conception of Mill as a liberal thinker is the deference he demands to certain individuals. Elites, those possessing 'individuality' as opposed to the conforming masses steeped in the Victorian ethic, were to guide the majority in their development, and so their authority was beyond question in such matters. People "must place the degree of reliance warranted by reason, in the authority of those who have made moral and social philosophy their peculiar study…[R]eason itself will teach most men that they must, in the last resort fall back upon the authority of still more cultivated minds." (L 244) In *Utilitarianism*, Mill invokes their expertise to determine what the higher pleasures are, and "From this verdict of the only competent judges, I apprehend there can be no appeal." (L 213) Moreover, the higher pleasures are not simply categorically more utility-producing, the preference for the higher pleasures is *itself* evidence of one who possesses regenerated morality.

> Whereas the person who sought the higher pleasures was capable of subordinating selfish desires and cultivating a "fellow-felling with the collective interests of mankind," his opposite was characterised by selfishness, which was the principle cause of an unsatisfactory life. Such a person was "a selfish egoist, devoid of every feeling or care but those which centre in his own miserable individuality. (Hamburger, 1999: 133)

Such passages suggest that Mill is not neutral between forms of life, and Hamburger's claim is that there was one in particular he tried to arrange society to maximise, namely his religion of humanity. Though Mill advocates "experiments in living" and "individuality", it is clear he did not posses a Rawlsian neutrality between conceptions of the good. This project is not an individualistic one because of the extensive role society and elites are to play. Hamburger concludes that at best Mill can still be considered a type of communitarian thinker, but this would still require discounting substantial elements of his seemingly illiberal writings.[1] Mill may find Comte's subservience to elites undesirable, but he certainly has a much larger role for them to play in precipitating the transition to the next stage of human history.

The biggest challenge facing Hamburger's thesis is the supposed *raison d'être* of *On Liberty*. Why call for liberty at all? Why not advocate directly the adoption of a regenerated morality? Despite being in a critical period of history, Mill still perceived Christian and Victorian norms to be the biggest threat to freedom and hence the necessary, but not sufficient, conditions for progress to the next period. *On Liberty* was a challenge to the status quo, and the first step to regeneration. Individuals must develop their enlightened moral capacities free of the homogenising effects of the prevailing norms and beliefs. Hamburger states flatly, "Regeneration was to be preceded by destruction. Beliefs surviving from the past that were obstacles to the emergence of a new moral order were to be eliminated" echoing Mill in his autobiography:

> The old opinions in religion, morals, and politics are so much discredited in the more intellectual minds"; however, "they have still life enough in them to be a powerful obstacle to the growing up of any better opinions on those subjects. (1999: 42)

The central thesis of *On Liberty* is not largely an argument for negative liberty. For even if such a sphere were a necessary condition for moral regeneration, most of the impediments Mill sought to remove were clearly internal, and could require interference into someone's life in order to nurture the

properly regenerated character and preferences (a point I take up at the end of this paper). Indeed, the last two chapters carefully differentiate between legitimate and illegitimate reasons for interfering in someone's life. Mill is clear that "A person who displays rashness, obstinacy, self-conceit – who cannot live within moderate means - who cannot restrain himself from hurtful indulgences - who pursues animal pleasures as the expense of those of feeling an intellect" is liable to incur "severe penalties at the hands of others" (L 278). These penalties can range from our simply avoiding the person in question to holding them in contempt. Short of causing harm, which Mill notoriously does not define, an individual may rightly suffer the inconveniences that are "natural" and "the spontaneous consequences of the faults themselves." (L 278) Moreover, it should not be overlooked that the harm principle covers not only actual actions, but also the *dispositions* that lead to them. (L 279) Mill's description of the characteristics that may warrant penalties makes it clear that the reasons for intervention can only be to help the individual overcome their character flaws, even if manifested in wholly self regarding ways. Mill specifically denies legislative paternalism, but this should be little comfort to those who hold a conventional reading of Mill, because he states that public opinion:

> Practises a social tyranny more formidable than many kinds of political oppression, since, though not usually upheld by such extreme penalties, it leaves fewer means of escape, penetrating much more deeply into the details of life, and enslaves the soul itself. (L 273)

If Mill were more concerned with liberty as a fundamental value rather than the proper role of regenerated elites, he would have at least spoken against "spontaneous" and "natural" social coercion. Instead, he devotes pages to the various reasons and forms of legitimate and illegitimate forms of interference, and says little about the net *effects*. It appears Mill has a specific role for elites to play in the regeneration of morality by allowing certain forms of interference, even within the self-regarding sphere. It may be crucial to allow for the negative sphere of liberty to experiment with different modes of life, or express individuality, but in order to reach the next organic period of history, a very particular sort of development needs to take place within each individual. This development, or regeneration, might require society to play a role that would offend current liberal sensitivities. This interpretation of Mill is a direct challenge to those who hold him as one of the principle exponents of an individualistic, largely negative version of liberalism. To test the coherence of this interpretation, we must see how it fares when compared to

the interpretation given by the revisionary scholarship, which seeks to reconcile the utilitarian and liberal strands of his thought.

II

Isaiah Berlin depicts Mill as being incoherent, and never able to reconcile his liberal commitments with his inherited, albeit amended, utilitarian tradition. Since Berlin first posed the dilemma in 1959[2], several writers who would eventually comprise the revisionary treatment of Mill, have sought to re-examine these tensions in order to reconcile them. Some, such as Alan Ryan, conclude that Mill can be interpreted to hold liberal principles based soundly on a utilitarian grounding (Gray and Smith, 1991: 7), while others such as C.L. Ten conclude that no formulation of utilitarianism can accommodate liberal principles (Gray and Smith, 1991: 11). However, all agree that Mill was ultimately committed to liberal principles, and merely failed to derive them. To test the strength of this new interpretation of Mill, I will firstly sketch the traditional critique of Mill, which has set the scope for the subsequent revisionary school. I then compare our new interpretation of Mill to the indirect utilitarian formulation put forward by a later revisionary writer, John Gray. Gray builds on several other interpretations such as Ryan and JC Rees's, and reads into Mill an indirect form of utilitarianism (Gray and Smith, 1991: 8). This formulation goes some distance in alleviating the tensions between utility and liberty, but ultimately the former takes precedence, thereby jeopardizing Mill's status as a consistent liberal.

Among Mill's traditional critics and interpreters, it is widely held that Berlin is the most influential (Gray and Smith, 1991: 2). His lecture entitled "John Stuart Mill and the Ends of Life" delivered in 1959 has set the tone and scope of what is considered the revisionary school of Millian interpretation. After having condemned Mill as failing to ground his liberal prescriptions on a fundamental utilitarian principle, this new school of interpretation has sought to overturn Berlin's conclusion by reconciling the disparate strands of Mill's theory. Berlin argues that despite being reared in the strictest of utilitarian upbringings, Mill's deepest convictions lay with the "diversity", "versatility", and "spontaneity" of the human species, and the pursuit of rational desires (Berlin, 1991: 134; 148). However, Hamburger, and subsequently this paper, seeks to widen the scope of the debate by questioning the degree to which Mill's thought can still be considered liberal in the contemporary sense, and whether it is internally consistent.

When Mill was a young adult in his early twenties, he broke from the classical utilitarian confines within which he was reared. He came to endorse a different conception of happiness than his Benthamite predecessors: rationality and contentment were replaced by vitality and diversity, and a "fullness of life" (Berlin, 1991: 134). Mill, a stated empiricist, denies that things can be rationally proven. Truths can merely be updated as more observations are made. This fallibilism and perpetual incompleteness that Mill attributes to human knowledge is one of his arguments for full freedom of expression. Only constant challenges by false and partially false ideas can prevent the truth from becoming "dead dogma". However, Berlin charges that even full freedom of expression cannot guarantee the approach of truth:

> Again, it may well be that without full freedom of discussion the truth cannot emerge. But this may be only a necessary, not a sufficient, condition of its discovery; the truth may, for all our efforts, remain at the bottom of a well, and in the meantime the worse cause may win, and do enormous damage to mankind. (1991: 144)

The social costs of permitting the proliferation of certain beliefs could be potentially quite great. Preaching sexist or racist polemics, even if not directly inciteful, may still have longer-term, subtler, detrimental effects on society. However, Mill does presuppose *a* truth that can be known and is fixed, namely his conception of human nature, and its deepest interests. These interests demand that the sphere within which a person's activity affects no one but the self be completely immune to both legal and social interference. Only in such an inviolable sphere can the individual truly flourish. Berlin reiterates James Fitzjames Stephens's scepticism about the possibility of such a sphere existing. Individuals of a society are too interconnected to isolate an area of activity that concerns absolutely no one else. It might be the case empirically that the offence suffered by some unusually sensitive group may genuinely constitute harm. The mere thought of someone ingesting a certain drug, or performing certain sexual acts may be upsetting, offensive, or even harmful. Such sensitivities may be irrational, but as Berlin points out, there are no utilitarian reasons to privilege the rational, especially if the goal is the maximisation of utility (1991: 148). What may actually provide the most utility may not be Mill's vision of liberal society; in fact:

> It might be argued that there is no a priori reason for supposing that most men would not be happier – if that is the goal – in a wholly socialized world where private life and personal freedom are reduced to vanishing point, than in Mill's individualist order; and that whether this is so or not is a matter for experimental verification. (Berlin, 1991: 146)

Mill was not merely commenting on what he observed to be the conditions that best suited the pursuit of utility, so much as prescribing an ideal human life. Consequently, he forfeits his utilitarian grounding, which is *necessarily* neutral between sources of utility. Where this paper and Berlin agree is that Mill betrays his empirical methodology by maintaining a particular conception of human nature and the conditions for its flourishing. However, whereas Berlin argues liberal society best suits human nature, I am arguing that it is nothing more than a means to the true condition of human flourishing: the next organic state of history constituted by the religion of humanity. Berlin's conclusion that Mill failed to ground his liberal project on utilitarian principles not only exemplifies the traditional line of critique against Mill, but also has framed the problematic to be addressed by what has come to be known as the revisionary school of Millian scholarship (Gray and Smith, 1991: 5). This line of inquiry seeks to re-assess Mill's moral and political thought to determine how, if possible, these two strands of his thought can be reconciled.

One such attempt is made by John Gray who employs Mill's *System of Logic* to re-interpret his thought. He builds on the distinction borrowed from "The Art of Life", but employs the principle of utility in a slightly different manner. "The Art of Life" maintains that the practitioners of art and science play distinctly different roles in the pursuit of ends and must never confuse their responsibilities. Art is critical and evaluative of ends (imperative mood), whereas science reasons the causal factors and circumstances that make possible that particular end (indicative mood). Gray describes how Mill implies a second principle when referring to the principle of utility; one axiological that judges art, or ends, the other action-guiding judging science, or means. The latter he calls the principle of expediency and it enables us to make judgements about the utility-maximising dimensions of an action, whereas the principle of utility can only rule on conflicting secondary principles, or on the inherent utility of some end. Gray stresses that *because* of an enduring feature of humans, direct appeals to the principle of utility are self-defeating:

> Mill's argument, rather, is that principles for the appraisal of policies adopted such as his Principle of Liberty are public and practical principles for the appraisal of policies adopted by men aware that their continuing partiality to their own interests subverts any direct appeal to Utility as a principle capable of sustaining a stable social union."(1996: 66)

Gray's concern for this particular feature of human nature I think well founded, and it is easy to read that this is what Mill was overcoming by the arguments put forward in *On Liberty* and *Utilitarianism.* Selfishly maximising utility might involve the betrayal of friends, families, and other social institutions. This strategy of maximisation would be very destabilising, and most definitely be self-defeating. Moreover, the epistemological demands of the consequentialism involved in direct appeals to the principle of utility are too great for an effective calculus. However, this fact of human nature, our 'continuing partiality,' seems no more fixed than the facts of those societies, "in which the race itself may be considered in its nonage." Whatever those facts that sanction that, "Despotism is a legitimate mode of government in dealing with barbarians, provided the end be their improvement," presumably will fade when "mankind have become capable of being improved by free equal discussion." (L 224) This progressive - almost teleological - model of human development is perfectly consistent with the new interpretation of Mill put forward here. He recognises society to be in a critical period of history, and clearly feels that the practical principle of liberty is appropriate at this stage for overcoming the current moral order. The historical contingencies that qualify a society for the principle of liberty may one day *dis*qualify it when society progresses to the next organic stage of history. It is only because of a particular failure of human reasoning that the principle of liberty is expedient to mitigate the effects of each individual's selfish orientation. Humans may one day be able to balance private interests with public interests, thereby no longer needing to be constrained by the principle of liberty because transgressions of it will in all cases be maximally expedient. If within Mill's utilitarian framework, we read certain action-guiding secondary principles that he designs to suit the particular period of history, then it is conceivable that society will progress, and thus need different action-guiding principles, or none at all, i.e. appeal directly to the principle of utility. Without grounding these principles on something other than utility (or expediency, rather) they are only *contingently* expedient, and not to be followed for themselves. Whereas this reading of Gray was once considered critical because the logic of progress demands that Mill subordinates the liberties he argues for so forcefully for some larger end, be it utility, or some particular conception of human flourishing, we can now see that the implications of Gray's interpre-

tation of an indirect form of utilitarianism are consistent with this new interpretation of Mill as having much larger ends, i.e. promoting the religion of humanity. If during this critical period of history, the principles advocated in *On Liberty* were merely expedient to elevating society to the next organic period, then this indirect strategy is closer to Hamburger's thesis than any other in the revisionary school.

One of the upshots of this new interpretation of Mill is to reveal the narrowness of the revisionary treatments of Mill. Rather than simply trying to determine if Mill is successful in grounding his liberal principles or not, the scope should be widened to ask if he is a liberal at all. Perhaps he is an inconsistent utilitarian with few elements of liberal thought in his doctrine, or something else altogether. In fact, Hamburger's conclusion that Mill is probably best considered some type of communitarian because of the extensive role society is to play in the regenerating of morality may still be too close to the traditional interpretation. Once altruism replaced the selfish ethic still prevalent in society, and the next organic period is achieved, society may come to play a different role in maintaining these new norms and beliefs. The central, most controversial, element to Hamburger's thesis is that the new role society plays may not maintain a sphere of negative liberty, that is, at least not until the *next* critical period of history.

The new interpretation does not absolve all of the issues that arise when considering all Mill's moral and political thought. For example, the higher pleasures now operate simultaneously as ends in themselves as part of the religion of humanity, and also as evidence of one who has properly cultivated their disposition. As ends in themselves it is not clear what it is, other than pleasure, that makes them categorically higher. Mill's theory of life specifies that "pleasure, and freedom from pain, are the only things desirable as ends; and that all desirable things (which are as numerous in the utilitarian as in any other scheme) are desirable either for the pleasure inherent in themselves, or as a means to the promotion of pleasure and the prevention of pain." (Mill 1969a: 210) Why not value this *other ingredient* to the higher pleasures that makes them categorically better? Furthermore, if the capacity and actual *choosing* of the higher pleasures are evidence of a properly cultivated individual, then a circularity dilemma exists because the definition of a higher pleasures is that they are the ones experienced judges prefer irrespective of the costs, including pain, and moral obligation. Depending on which part of the cycle one starts, the difference between the pleasures may be criterial, or evidential. Does Mill conceive of a convergence of judgements upon activities because they excite higher capacities? This view is akin to Aristotle's positing of philosophy as the highest form of human activity, although much more

pluralistic in its content. Or, are the higher pleasures any activity that the judges deem to be higher? It is this view that allows some of Damien Hirst's unconventional art to enjoy the status that it does.[3] Whereas the former suggests an evidential distinction, one where the judge can be in error, the latter is a criterial distinction whereby the judgement *itself* is the only criterion for the higher status, and thus merely a subjective preference of the enlightened elites, but binding upon everyone in society. These, and several other indeterminacies are not resolved merely by our new interpretation of Mill. It may make coherent more of Mill writings, but certainly not all, and there are still challenges to the new interpretation.

III

At this point, it will be worthwhile to address a recent response to Hamburger's book by C.L. Ten. Ten rightly argues that no formulation of utilitarianism can give an absolute priority to the principle of liberty (1991: 213), but then goes on to conclude that Mill is not a utilitarian, despite his own claims (1991: 236). In the article entitled, "Was Mill a Liberal?", Ten (2002) directly challenges Hamburger's thesis. He argues that Hamburger distorts and misrepresents key passages to support his claim that Mill deliberately *misled* the readers of *On Liberty* (2002: 367). I think it bears repeating that my thesis here is not to defend Hamburger's claim about Mill's intentions. I am simply using his depiction of Mill to argue that as an interpretation of Mill's thinking Hamburger's is superior because it renders coherent more of Mill's writings. As such, defending Hamburger's thesis from Ten indirectly defends this interpretation. Mill is ambiguous at crucial moments of his writings, and I will attempt to show that his work can be interpreted in such a way to reconcile the many illiberal passages in other writings with the liberal (and non-liberal) passages of *On Liberty*.

Ten is systematic and comprehensive in his treatment of Hamburger, but I will limit myself to what I perceive to be some crucial objections he raises. One of the large departures from the traditional interpretation of Mill is that he allows intervention to correct certain self-regarding vices. Hamburger highlights the fact that Mill devotes much ink to the condemnation of 'selfishness' and 'self-indulgence', and considers them key obstacles to the realisation of the religion of humanity. Ten retorts that "selfishness affects others and is not a self-regarding fault. So the controls here do not support Hamburger's thesis." (2002: 357) I see two possible defences of Hamburger on this point. First, if we confine ourselves to J.C. Rees's definition of other-regarding actions that are only, "cases where the interests of others are either threatened or actually affected" (Rees, 1991: 180), it's not clear to me that self-

ish actions do meet this criterion. Leaving aside the issues of what 'threat' and 'affect' actually constitute, I don't see how a failure to be generous can in any way be a frustration of someone's interests. It may not *forward* their interests, but it certainly does not make lower one's interest-satisfaction than it otherwise would be. If one were contractually or legally bound to contribute one's own resources, then I could see the harm in failing to oblige. But in this case we would not describe the person as 'selfish', but rather as delinquent or maybe even criminal. A selfish person is one who parts with the absolute minimum of one's own resources or considerations, not one who violates agreements, or actively thwarts others people's interests. Selfish people don't deserve moral supererogation, but neither do they deserve moral condemnation, at least not in the same way as liars, scoundrels and criminals. With regards to moral regeneration, Mill is not so concerned with people violating contracts and laws as he is with the disposition of not considering other people's interests as primary, a wholly self-regarding characteristic, I would argue. The second reason I think Hamburger's claim retains its force is that if selfishness is the other regarding flaw that Ten argues it is, then there would be no contradiction in Mill's principle if the government or society coerced individuals displaying such qualities, and this is clearly not in line with the traditional interpretation that Ten argues from. Mill explicitly denounces legislative paternalism, but he does allow for individuals displaying miserable individuality and other self-regarding faults to be induced into enlightenment.

So far we have examined the reasons that Mill holds for interfering with people's lives, namely to correct certain character flaws of the individuals still burdened by outmoded beliefs. Now we must examine the forms of interference and their effects, and here some conceptual interpretations will add to the coherence of the new interpretation. Ten concedes that

> Mill seems to attach too much weight to the intention behind the interference a opposed to the effect. If the interference is to be legitimate, it must, for him, be designed not merely to change the victim's conduct, but also changing his beliefs about the normative status of the conduct. (2002: 361)

Indeed, when Mill speaks of "dispositions" that are the "fit subjects of disapprobation", the impediments to freedom are clearly internal (L 279). These and other passages where Mill describes the forms of intervention reflect Mill's disapproval of directly manipulating individual's desires. Either by physical coercion, or the withholding of some legally or contractually expected resource or action, Mill is clear that such infringements of liberty are in fact of no service to the individual in question. However, I think it reason-

able to hold that Mill does condone the active manipulation and control of people's *higher order* volitions. Mill may not explicitly articulate a hierarchical conception of the self in the way Harry Frankfurt (1989) does, but he does recognise an analogous internal hierarchy of capacities in *Utilitarianism* with the introduction of the higher pleasures, albeit even if not clear whether it is an objective or subjective distinction. With such a conception in mind, we can reconcile the control and influence he wants enlightened elites to have over the dispositions of the lowly masses, with the protection he wants for the developing individuals from the homogenising influences of Victorian social norms, and majority opinion. Whether the minority be the enlightened few trying to educate the masses, and in need of protection from legislative and majority resistance, or the last few troglodytes yet to be instilled with the regenerated morality of the religion of humanity, the physical coercion, or manipulation of first order preferences is neither allowed nor the *means* (Ten, 2002: 363) to its development. This interpretation is in line with Mill's defence of freedom of thought and discussion. Mill is concerned with individuals holding both the correct opinions, and the grounds for such opinions. It is not enough simply to have the truth commanded, just as it would be inadequate to coerce one into directing their first order preferences towards the higher pleasures. Rather, an individual is only susceptible to second order, positive influence at the hands of others.[4] With this interpretation, we can see why Ten might argue that Hamburger has "simply failed to understand the nature of Mill's conception of toleration." (2002: 360) Mill's "toleration" is in fact a complex methodology of development. It might be argued that if Mill's toleration, i.e. the protected sphere of negative liberty, amounted to a constitutive element of human flourishing, then the interpretation I am putting forward is really no progress on the traditional one. However, the introduction of a hierarchical conception of the self brings with it infinitely higher levels of influence that may take place in the name of moral regeneration. Provided the lowest level of decision-making cum action-taking was protected from interference, elites or society could influence individuals without violating the principle of liberty. Surely, this is one of the dangers perceived by negative liberty advocates, and certainly by some recent feminist writers who rightly see influences on preference formation and conditioning as an obstacle to truly autonomous choice (see, for example, Richards, 1994). Mill goes to great lengths to draw a line between legitimate and illegitimate forms interference that an individual may incur. In light of the diversification of the concepts of liberty since Isaiah Berlin, it may be necessary to move this demarcation, if we still want to consider Mill a liberal along the lines of the traditional interpretation.

Joseph Hamburger's book presents a controversial historical analysis of Mill's actual intentions underlying his thought as it is presented to us today. I have attempted to take his analysis and construct a new interpretation of Mill that goes some distance to resolving some of the incoherencies in his work. By shifting the emphasis away from negative liberty towards a much more positive and particular conception of human flourishing, we can resolve the debate initiated by Isaiah Berlin. Whereas Berlin concludes Mill is an inconsistent liberal, we now see that his thought is much more nuanced and consistent, based on 'utility in the largest sense, grounded on the permanent interests of man as a progressive being.' Valuing social control as much as this interpretation depicts, it is not so easy to assimilate Mill into a familiar species of liberalism.

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Notes

1. See Hamburger (1999: 232) for a list of some of the illiberal elements of Mill's writings.

2. First delivered as The Robert Waley Cohen Memorial Lecture, at The Conference Hall, London, 2 December, 1959.

3. I do not dispute that Damien Hirst produces art, but on October 19, 2001, the Guardian ran this story, *Hirst artwork rescued from rubbish*: The piece was a part of the Damien Hirst window artwork at the Eyestorm gallery in central London. The work of art was thrown away by a cleaner, who thought it was a pile of old rubbish left over from a party the previous night. The artwork was restored to its former glory by gallery staff when the mistake was spotted. The work, which is for sale for a six figure sum, is waiting for a buyer.

4. G.W. Smith (1991) makes the argument that 'complete freedom' for Mill presupposes three elements, one positive and two negative: A) Possession of the capacity to alter one's character, if one wishes. B) Absence of impediments upon the exercise of this capacity when one does wish to exercise it. C) Absence of conditions inhibiting the occurrence of the desire to do so. A could be described as the higher order desire, B the minimum sphere of negative liberty required to act in accordance with the religion of humanity, and C the homogenising effects of Victorian and Christian social norms.

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